

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

KENNETH RAY JOHNSON, JR.,)	
)	
Plaintiff,)	
)	
-vs-)	Case No. CIV-12-442-F
)	
OFFICER CANTRELL, et al.,)	
)	
Defendants.)	

ORDER


United States Magistrate Judge Robert E. Bacharach issued a Report and Recommendation on September 17, 2012, wherein he recommended that the court deny defendants' motion for summary judgment. The motion was premised upon plaintiff's failure to exhaust his administrative remedies.

Presently before the court is defendants' objection to the Report and Recommendation. The court has conducted a de novo review of the matter in accordance with 28 U.S.C. § 636(b)(1). Having done so, the court concurs with Magistrate Judge Bacharach that defendants have not established a failure to pursue any available administrative remedies. Defendants have not demonstrated as a matter of law that there were any possible remedies open to plaintiff if he had utilized the grievance process. The court finds defendants' objection to be without merit. The court therefore accepts, adopts and affirms the Report and Recommendation.

Accordingly, the Report and Recommendation of United States Magistrate Judge Robert E. Bacharach is **ACCEPTED, ADOPTED** and **AFFIRMED**.

Defendants' Motion for Summary Judgment is **DENIED**. A schedule for this matter will be set by separate order.

DATED November 2, 2012.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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